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FEPC, how it operates

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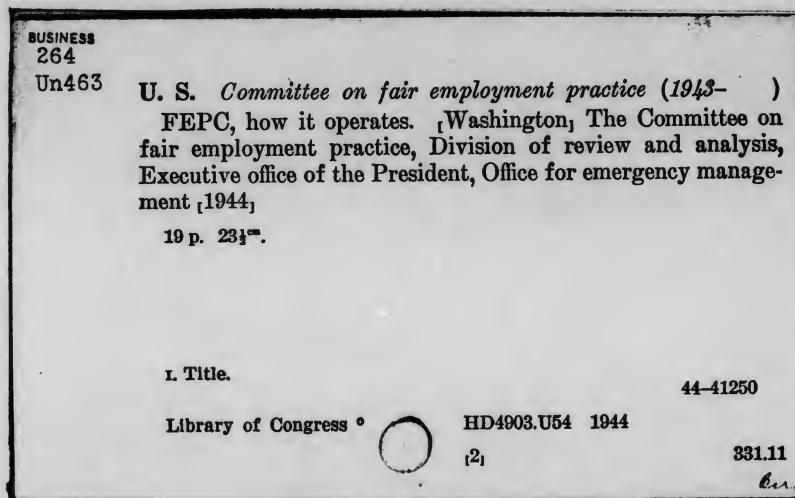
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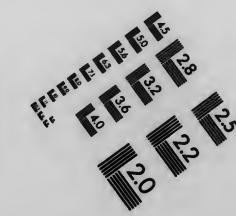
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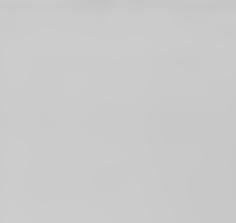
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U.S. COMMITTEE ON FAIR EMPLOYMENT
PRACTICE.

FEPC - HOW IT OPERATES.

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THE COMMITTEE ON FAIR EMPLOYMENT PRACTICE

Division of Review and Analysis

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE FOR EMERGENCY MANAGEMENT

HD4903

U54

1944

COMMITTEE MEMBERS

MALCOLM Ross (*Chairman.*)

JOHN BROPHY, Director of Industrial Union Councils, Congress of Industrial Organizations.

CHARLES L. HORN, President, Federal Cartridge Corporation.

CHARLES H. HOUSTON, Attorney.

BORIS SHISHKIN, Economist, American Federation of Labor.

SARA E. SOUTHALL, Supervisor of Employment and Service, International Harvester Corporation.

MILTON P. WEBSTER, International Vice President, Brotherhood of Sleeping Car Porters, American Federation of Labor.

EXECUTIVE ORDER 8802

* * * I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or Government because of race, creed, color, or national origin, and I do hereby declare that it is the duty of employers and of labor organizations, in furtherance of said policy and of this order, to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed, color, or national origin * * *

FRANKLIN D. ROOSEVELT,
The President of the United States of America.

The WHITE HOUSE
June 25, 1941

BEGINNING AND GROWTH

Early in the defense program it became evident that full mobilization of American manpower was going to be a major problem. It was also obvious that since minority groups number some thirty million persons in the United States, an important aspect of the overall manpower picture concerned their integration into the war effort. In July 1940 there began a series of measures to prevent discrimination in essential industry.)

The National Defense Advisory Commission established an office in its Labor Division to facilitate the utilization and training of Negro workers and later reached an agreement with the American Federation of Labor and the Congress of Industrial Organizations by which they accepted responsibility for removing barriers against such workers. This was followed by announcement by the United States Office of Education of a nondiscrimination policy in the expenditure of Federal funds for vocational training for defense. In October 1940 Congress, in appropriating money for defense training, forbade discrimination against trainees because of sex, race or color.

Special letters and instructions were issued by various Government officials during the next six months. For example, in January 1941 the Administrator of the Federal Works Agency issued a regulation prohibiting discrimination in employment in the construction of defense housing projects. In a memorandum of June 12, 1941 to William S. Knudsen and Sidney Hillman, Directors of the Office of Production Management, President Roosevelt emphasized the need for unity. "No nation combatting the increasing threat of totalitarianism can afford arbitrarily to exclude huge segments of its population from its defense industries," he said. "Even more important is it for us to strengthen our unity and morale by refuting at home the very theories which we are fighting abroad."

(On June 25, 1941, in response to growing protest that the steps taken had not proved adequate, the President issued Executive Order 8802 and authorized a Committee on Fair Employment Practice to administer it.) The Order stated that it was the duty of employers and of labor organizations "to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed, color, or national origin." According to Executive Order 8802, the Committee was to "receive and investigate complaints of discrimination in violation of the provisions of this order and . . . take appropriate steps to redress grievances which it finds to be valid." It was also empowered to make recommendations to Government agencies and to the President.

Less than one month later on July 18, 1941, the President appointed a committee of six to serve without compensation. Mark Ethridge, Publisher of the *Louisville Courier-Journal*, was appointed the first Chairman and Lawrence Cramer, former Governor of the Virgin Islands, was called from teaching at Harvard University to become Executive Secretary. Originally the Committee functioned within the Labor Division of the Office of Production Management. On January 26, 1942, when Office of Production Management was abolished, the Committee was transferred to the War Production Board. Dr. Malcolm S. MacLean, President of Hampton Institute, became Chairman in February 1942, and in July of the same year the Committee was transferred as an "organizational entity" to the War Manpower Commission.

By the beginning of 1942 it was apparent that a reorganization was necessary to enable the Committee on Fair Employment Practice effectively to carry on its duties. The staff at maximum had consisted of thirteen officers and twenty-one clerical and stenographic employees, a number far too small to investigate thoroughly the numerous complaints being received by the Committee. Under Executive Order 9346, issued on May 27, 1943, a new Committee with a full-time Chairman was set up as an independent agency.

The new Order enlarged upon Executive Order 8802 while repeating its basic principles. It stated clearly that it was the duty of all employers, including Federal agencies and labor organizations, "to eliminate discrimination in regard to hire, tenure, terms or conditions of employment, or union membership because of race, creed, color, or national origin." Contracting agencies of the Government were directed specifically to require a nondiscrimination provision in all subcontracts in addition to all prime contracts, as was mandatory under Executive Order 8802. The Committee's powers to "conduct hearings and make findings of fact," to promulgate "rules and regulations" and to "take appropriate steps to obtain elimination of such discrimination" were mentioned in detail.

Monsignor Francis J. Haas, Dean of the School of Social Sciences at Catholic University and well-known labor mediator, was appointed Chairman of the new Committee and served until nominated Bishop of Grand Rapids on October 7, 1948. Former Deputy Chairman Malcolm Ross, author and one-time Director of Information of the National Labor Relations Board, was named his successor by President Roosevelt on October 18, 1943.

At the present time in addition to the Chairman the Committee on Fair Employment Practice has six members who represent labor and management. The full-time staff numbers 113 workers, 60 of whom are in the field. The national office in Washington, D. C. has four divisions: Field Operations, Administrative, Legal, and Review and Analysis. In the field there are nine regional offices,

each with a director in charge, and two additional suboffices, one in Detroit in Region V and one in Los Angeles in Region XII.

DUTIES AND JURISDICTION

Responsibility for fair employment practice rests, actually, with the individual employer, union or Government agency. In interpreting and administering Executive Order 9346 the Committee, which is an administrative agency, first must determine how, when and by whom discrimination is practiced, and second, must take appropriate steps to eliminate such discrimination.

Definition of complaints and complainants.

FEPC has jurisdiction over complaints of discrimination because of race, creed, color or national origin. The category of noncitizens was not included in Executive Order 8802, nor in the more recent Order. A statement by the President in January 1942 brought aliens within the scope of the Committee's jurisdiction, but the Committee is now seeking clarification of its responsibilities in regard to this group.

Whether because of race, creed, color, or national origin, discrimination may take many different forms. It may be direct by the employer against an employee, as in the case of refusal to hire. A member of a minority group may be employed and later subjected to inferior working conditions. Failure to utilize minority workers at their highest skill level, early and unwarranted dismissal and unequal pay for equal work are additional types of direct discrimination.

Less direct discrimination in employment may be practiced by unions, training institutions and employment agencies. Most of the complaints against unions charge refusal to accept for membership, to issue work permits or to handle grievances, including disputes over seniority and upgrading. There also may be segregation into local auxiliaries in which the Negro worker is denied the right to vote, to bargain collectively, or to participate equally in business negotiations. Complete denial of training and, in addition, unequal facilities where segregated schools exist and where an equal supply of Negro labor is available for training are the chief charges against training institutions. Discriminatory want ads and job specifications sent to employment agencies frequently prevent nonwhite, Jewish, and alien complainants from obtaining war jobs.

Basis of the Committee's authority.

The functions performed by the Committee are carried out for and in the name of the President. The authority delegated to the Committee stems from two Presidential powers: first, the Constitutional authority of the President, as administrative head of the Executive Branch of the Government, to direct the operation and administration of all Federal agencies in this branch of the Government, and second,

his power as Commander in Chief to take all administrative action necessary to assure adequate supplies for the armed forces of the United States. Pursuant to his authority under the former, the President has empowered the Committee to investigate discrimination on the part of Government agencies, Government-sponsored training programs and private industries involved in the performance of Government contracts. The President's power as Commander in Chief underlies his delegation of authority to the Committee to investigate discrimination in all essential war industries.

Agencies within the jurisdiction of the Committee.

Thus, the jurisdiction of the Committee under Executive Order 9346 extends to three categories of complaints alleging discriminatory employment practices:

1. Complaints against all agencies of the Federal Government,
2. Complaints against all employers, and the unions of their employees, having contractual relations with the Federal Government which expressly or by implication contain a nondiscrimination clause regardless of whether such contracts pertain to the war effort, and
3. Complaints against all employers, and the unions of their employees, engaged in industries essential to the war effort, whether or not they have contractual relations with the Government.

The Committee's jurisdiction over complaints against Federal agencies has never been challenged. But questions have been raised regarding the kinds of Government contracts contemplated by the Order and whether or not the inclusion of the Order's nondiscrimination clause in such contracts is mandatory. The latter question has been answered in the affirmative by the President. In defining the kinds of Government contracts contemplated by the Order, the Committee has ruled that the nondiscrimination clause must be included in all contracts made, amended or modified which call for the employment of persons. Such inclusion does not depend upon the amount of money involved and is required even though the contract does not concern war activity.

Jurisdiction over war industries where no contract is involved has been challenged in several cases. The Committee has issued no comprehensive definition of what it regards as war industries. It accepts as a general guide the War Manpower Commission's *List of Essential War Industries*, but it reserves to itself the right to determine in each case whether the party charged is an essential war industry within the meaning of the Order. It has been ruled that steamship lines, railroads, telephone and telegraph companies and local street railway systems in vital industrial areas are essential war industries.

The Committee also has ruled that its jurisdiction extends to all war training programs financed with Federal funds even though operated by private educational institutions.

Agencies not within the jurisdiction of the Committee.

Contrary to popular belief the Committee does not have jurisdiction in a case merely because the party charged is engaged in interstate activities. FEPC has no power to deal with privately owned and operated plants which do not hold Government contracts or subcontracts and which are not engaged in activities essential to the war effort, even though they may be engaged in interstate or foreign commerce. Also excluded from the Committee's jurisdiction are retail stores and local enterprises such as beauty parlors, law offices, specialty shops, etc., which do not hold Government contracts and which are not engaged in services essential to the war effort.

The Committee has no jurisdiction over the armed forces.

PROCEDURE

A case requiring investigation by the Committee on Fair Employment Practice is

- (a) a signed complaint
- (b) against a named employer, union or Government agency
- (c) alleging discrimination
- (d) relating to employment, placement or training
- (e) because of race, creed, color or national origin.

When it comes to his attention, a staff member may act upon information pertaining to discriminatory advertisements, placement orders or application forms. In addition, evidence of violation of Executive Order 9346 referred to the Committee by another Government agency may constitute a case.

Method of investigation: Customary steps.

All cases are filed in the regional office of the area in which the alleged discrimination has occurred. Investigation begins as soon as it is decided that the complaint comes within the Committee's jurisdiction. The first steps are to obtain from the complainant whatever additional information may be necessary and to check with other sources for material in regard to the union, employer or Government agency charged. After this, if the Fair Practice Examiner is satisfied that the case has some merit, contact is made with the party charged. If an employer or union official thus reminded of his responsibilities under Executive Order 9346 complies with the recommendations of the Examiner and the Regional Director, the case is closed. In many of these cases negotiations between regional representatives and em-

ployers, union officials or Government officials are required. Most of the cases satisfactorily adjusted in the 11 months' period from July 1, 1943, to May 31, 1944, represent disposition at the regional level.

If a case cannot be adjusted by the usual steps taken at the regional level, the regional office can refer it to the Director of Field Operations in Washington. At both the regional and national levels there is frequent negotiation with the War Manpower Commission or with the contracting agencies of the Government. In some troublesome situations a Fair Practice Examiner is sent from the Washington office to effect a satisfactory disposition of the case. The Committee holds but few public hearings each year, and only in exceptional cases is there referral to the full Committee and the scheduling of a public hearing. This occurs only after all other methods of settlement have been employed unsuccessfully.

Hearings.

The decision to hold a hearing is not automatic. It is made only after the members of the Committee have agreed upon such action. The purpose of public hearings is to determine the existence of discrimination, the duties of employers and the rights of employees under Executive Order 9346.

Hearings conducted by the Committee on Fair Employment Practice are informal, fact-finding proceedings. They are not limited by the legal rules of evidence and procedure. The full Committee, sitting as an impartial body, may hear the case or may authorize its Chairman to appoint a hearing commissioner for the purpose of conducting the hearing. In other instances a panel of Committee members may be designated. In the case of full Committee hearings a number of concerns from the same industry or local area may be investigated at one set of hearings. This practice is followed in part for reasons of economy. Moreover, where several firms in the same industry and/or local area show discrimination in their employment policies, it would be unjust to hold public hearings on some one company.

Ample notice of the hearing and of the specific charges is given to the party charged. Parties may appear in person or be represented by counsel and may examine and cross-examine the witnesses. The Committee may request the party charged to present material, but it has no power to subpoena witnesses or records.

The full Committee reviews the stenographic record of the proceedings before rendering its final decision and entering its findings. At this time it takes corrective measures, which may include recommendations and directives to the parties charged and recommendations to Federal agencies and to the President of the United States to eliminate whatever discriminatory practices have been revealed.

The elimination of discrimination.

In most instances FEPC staff members are able to bring about the adjustment of specific complaints without formal reference to the Committee. Frequently the employer or the union has no idea of how to go about the elimination of discrimination. In these cases FEPC staff members can offer expert advice and counsel on techniques for overcoming employee resistance. Satisfactory disposition is achieved when the party charged complies with the requests of FEPC representatives that it take certain positive steps to correct present discriminatory practices or to guard against their future occurrence. Beyond the settlement of the immediate grievance, such implementation usually consists of written notices and instructions to personnel officers, placement agencies, training institutions and labor unions that the party charged will employ and utilize persons solely on the basis of their qualifications and without regard to their race, creed, color or national origin.

The Committee's directives usually advise the parties charged to issue formal instructions to their own personnel officers and employment agencies that the recruitment, training and placement of workers will be carried on without discrimination.

In addition, the Committee has at times directed companies to hire persons who have been discriminated against or to reinstate workers who have been dismissed for discriminatory reasons. One such instance occurred in December 1942, following a hearing which involved charges brought by seven members of Jehovah's Witnesses. The Committee directed that "the company take immediate steps to offer reinstatement to the seven complainants and to offer them reemployment with full seniority rights they would have enjoyed had they been continuously employed."

The Committee consistently has expressed its conclusions regarding methods of carrying out the purposes of the Executive Orders by means of the well-known administrative procedure of issuing directives. Power to issue directives is implied in Executive Orders 8802 and 9346. Under Executive Order 8802 the Committee "shall take appropriate steps to redress grievances." The corresponding clause in Executive Order 9346 authorizes it to "take appropriate steps to obtain elimination of * * * discrimination." The Committee's authority to issue directives springs from these phrases.

Should the Committee's directives be defied, such violation can be referred to the proper contracting agency, including the War Department, the Navy Department, or the Maritime Commission. Ultimately noncompliance is certified to the President of the United States.

The Committee can also bring such cases of noncompliance to the attention of the Chairman of the War Manpower Commission. A formal agreement executed by the two agencies in August 1943, defines

the respective responsibilities of FEPC and WMC in enforcing the Government's nondiscrimination policies concerning the training, placement, and utilization of manpower.

The War Manpower Commission in carrying out its Employment Stabilization Program may penalize violators of the program's clause prohibiting discriminatory hiring and referral practices. WMC through the United States Employment Service may refuse to service noncomplying employers or may issue certificates of availability to workers against whom discriminatory policies have been practiced. It may refuse the employer clearance for the recruitment of workers outside of his labor market if he imposes discriminatory hiring specifications. It may issue certificates of availability to the workers of a noncomplying employer. Also, in accordance with WMC policy employees who quit in protest over the employment of minority workers may be denied certificates of availability to other employment. The above steps may be taken at either the regional or national level.

Ultimately the President may act under his authority as administrative head of the Executive Branch of the Government or as Commander in Chief of the armed forces to enforce Committee directives.

SCOPE OF ACTIVITIES

Complaints received and investigated.

As of July 1, 1943, FEPC had pending 1,016 cases. During the 11 months' period between that date and May 31, 1944, 3,806 new cases were docketed. During the same period 2,648 cases were closed, leaving the Committee's June 1 case load at 2,188. Nearly 39 percent of the cases closed represented satisfactory adjustments. Dismissal because of lack of jurisdiction over the complaint or because of insufficient evidence accounted for approximately 20 percent of the closings. In addition, 28 percent of the cases were closed on merits, nearly 10 percent were withdrawn by the complainant and not quite 4 percent were dismissed for other reasons. The 1,642 cases in these last four categories represent allegations of discrimination which would have remained as continuing disputes had they not been subjected to a careful examination by a third party.

As of June 1, 1944, FEPC public hearings numbered only eleven. Six of these were held under the auspices of the old Committee, before the issuance of Executive Order 9346. A number of companies and unions were involved, and compliance has been largely good. Certain companies have been especially cooperative. The new Committee has conducted five public hearings: two were based upon charges of discrimination because of creed and involved the Dow Chemical Company in Midland, Mich., and the Northwest Mining and Exchange Company in Du Bois, Pa. The railroad hearings in Washington,

D. C., the boilermaker hearings in Portland, Oreg., and Los Angeles, Calif., and the case of the Philadelphia Transportation Company in Philadelphia, Pa., involved charges of racial discrimination.

Distribution of complaints by race, creed, color, national origin, alienage.

Race and color.—Discrimination on account of race comprised 81 percent of the complaints docketed from July 1, 1943 to May 31, 1944. Practically all of these involved Negroes. For the most part Negro labor in the United States has been disproportionately concentrated in unskilled, domestic, and agricultural occupations. According to the 1940 Census Negro men comprised 60.2 percent of all males in domestic service and Negro women constituted 46.6 percent of all women employed in this field. Colored men formed 21 percent of the males employed as laborers; colored women composed 26.9 percent of such female workers. (Farms and mines are not included.) Negro men were 21 percent of all farm laborers and foremen. It can be seen how disproportionately the Negro was concentrated in the lower work brackets in 1940 when it is considered that Negro males constituted 10.3 percent of the total male working population, and that colored women formed 18.9 percent of the total female working population.¹

During World War I and for a decade thereafter Negroes made significant occupational gains in such industries as iron, steel, meatpacking, shipbuilding, and automobile manufacturing. The depression seriously hampered these gains, and in 1940 Negroes constituted a smaller proportion of the workers in mining, manufacturing, transportation and communication than they had in 1910.² A survey by the Bureau of Employment Security of the Social Security Board, issued in September 1941, revealed that Negroes would not be considered by industry for 51 percent of 282,245 job openings expected to occur by February 1942.³

The Tolan Committee, in 1941, found that nine A. F. of L. unions still had constitutional provisions barring Negroes from membership, along with seven unaffiliated organizations. In addition, numerous unions continued to discriminate against Negro workers, excluding them by tacit consent and constitutional ritual and by segregating them into auxiliaries.

¹ U. S. Census, *Population, The Labor Force*, Vol. III, Pt. 1, Washington, D. C., U. S. Government Printing Office, 1943, pp. 88 and 89.

² Weaver, R. C., "The Employment of Negroes in War Industries," *Journal of Negro Education*, Washington, D. C., Howard University Press, Summer—1943, pp. 386-387.

³ Bureau of Employment Security, Social Security Board, *Labor Supply and Demand in Selected Defense Occupation Through the Period May—November 1941*, Washington, D. C., Federal Security Agency, September 1:41.

Since 1941 the Negro has made considerable advances in the field of industrial employment. In January 1944, according to the War Manpower Commission, nonwhite workers constituted 7.2 percent of the total fifteen million war workers in firms reporting to the United States Employment Service. This shows a good trend. In the beginning of 1942 it was estimated that nonwhite workers constituted only 3 percent of the employees in war industries. By September 1942 the figure was 5.7 percent; in January 1943, 6.4 percent, and in March 1943, 6.7 percent.⁴ Negroes have secured significant employment opportunities in shipbuilding, aircraft, blast furnaces, steel works, rolling mills, tanks, communication equipment, explosives, and ammunition.

No reliable data is available on the utilization of nonwhite workers in skilled and semiskilled occupations. Most observers agree that Negroes are being both placed and upgraded to skilled and semiskilled operations in many plants at a startling rate. The WMC has revealed that for the last quarter of 1943, 14.8 percent of nonwhite placements were in other than unskilled occupations.⁵ The number of Negroes in operations other than unskilled in industry is perhaps much higher than this figure would indicate since the usual tendency is to upgrade Negroes from unskilled jobs, rather than to take newcomers from the outside at the high levels of employment.

Negroes have also made considerable gains in the Federal Civil Service. A 1938 report by L. J. W. Hayes showed that Negroes composed 8.4 percent of Federal employees in Washington, and that 90 percent were in custodial jobs.⁶ In contrast, a study by the Division of Review and Analysis of FEPC, involving a sample which covered 1,957,858 Government employees, showed that as of July 31, 1943, 12.5 percent of these workers were colored. According to this study Negroes composed 18 percent of the total personnel in the departmental service. A large number, 50 percent or more in some agencies, were employed in the clerical, administrative and fiscal category, although in the field service most Negroes were still in custodial classifications.

In general, however, good utilization of Negro labor is spotty and is concentrated in certain industries, in certain areas, and even, in some cases, is limited to specific corporations. There are many industries where the full utilization of nonwhite workers is of critical importance to the war production effort. Among these are the local transit industry, the air frame industry, the cotton textile industry in the South, the jute-spinning industry, the rayon fibre and rayon textile

⁴ Weaver, R. C., *op. cit.*, p. 391.

⁵ Reports and Analysis Service, *Placement Activities*, Washington, D. C., War Manpower Commission, December 1943.

⁶ Hayes, L. J. W., *The Negro Federal Government Worker*, Washington, D. C. Masters thesis, Howard University, 1941.

industry, the anti-friction bearing industry and the shipbuilding industry where colored workers are already highly utilized.

The practices of organized labor have not kept pace with the increased employment of the Negro. Today, 13 national or international unions exclude Negroes by constitutional provision, 4 exclude by tacit consent, 9 afford only segregated auxiliary status to Negroes, and 1 excludes by ritual. A number of the large industrial locals of the latter interpret the ritual reference to white persons to mean white of character and thereby admit Negroes. With regard to most situations involving the highest grade mechanics, the ritual is still effective in achieving exclusion.

Creed.—Charges of discrimination because of creed comprised about 9 percent of the complaints received by the Committee during the July 1943-June 1944 period. Most of them came from Jews. Members of this group frequently have been barred from employment through discriminatory want ads or specifications to employment agencies. Application forms on which religion must be designated further such discrimination. In many cases training schools have refused to admit Jews because of past difficulties in placing these graduates.

Discrimination against Jews has been widespread in several fields of employment. Prior to the war it was difficult for persons of Jewish origin to obtain white-collar positions through employment agencies, for a large proportion of these did not refer Jewish applicants to Christian employers, even when the latter placed no discriminatory specifications. Signs with legends such as "no Jewish applicants until further notice" were mentioned in a report by the American Jewish Congress,⁷ and even the application forms of some State employment agencies required persons seeking jobs to state their religion. Employment by public utilities, banks, chain stores and industrial concerns was also denied to large number of Jews, although in certain industries they were well represented.

Complaints filed with the Committee from Jews are concentrated in the Northeast section of the country. There are few cases involving discrimination on the part of unions or Government agencies. Most Jewish complaints involve refusal to hire, discriminatory application blanks, and discriminatory advertisements. Those charging discriminatory working conditions usually involve attitudes on the part of fellow workers rather than more direct discrimination on the job.

Orthodox Jews, Seventh Day Adventists and others who regard Saturday as their Sabbath constitute a problem because of the working schedules to which most industries geared to the demands of war production now adhere. Absenteeism related to such practices often has

⁷ Colien, J. X., *Jews, Jobs, and Discrimination*, New York, N. Y. American Jewish Congress, reprinted 1944, p. 4.

led to dismissal, although many plants and agencies have managed to work out satisfactory arrangements for Sabbatarians. John W. Martyn, administrative assistant to the Secretary of War, the late Secretary of the Navy, Frank Knox, and Harry B. Mitchell, president of the Civil Service Commission, in separate statements, have expressed the willingness of their departments to attempt to provide systems whereby their employees can observe religious holidays. These statements have been implemented by departmental instructions.

National origin and alienage.—Discrimination because of national origin alone accounted for slightly more than 6 percent of the complaints docketed by the Committee between July 1, 1943, and May 31, 1944. Some foreign-born citizens are denied employment simply because an employer doubts their loyalty. On the other hand certain groups, largely Spanish-American in origin, have to contend with discrimination of the same type which faces American Negroes. This is especially true in sections of the far West and Southwest.

The problem of placing noncitizens in war jobs is a troublesome one. During the 11 months' period mentioned above, discriminatory acts against aliens constituted approximately 5 percent of FEPC's docketed cases. Most discrimination of this kind arises from delay on the part of employers engaged in war production to process the necessary clearance. Sections in two acts of Congress, passed in 1926 and 1940, forbade the employment of aliens in the performance of aeronautical, secret, restricted or confidential contracts without the written consent of the Secretary of the department concerned. Although the latter Act has expired and the 1926 Act covers only aeronautical contracts, the War and Navy Departments and the Maritime Commission continue to require written consent for the employment of aliens on such "classified" contracts.

The number of complaints received by the former Committee from aliens proved the existence of confusion among employers and applicants alike. In March 1943 discrimination against aliens still comprised FEPC's second largest group of complaints. A series of steps has served to alleviate the situation. On July 11, 1942, President Roosevelt issued a clarifying statement, setting forth the official position on the employment of noncitizens and outlining procedures to be followed in hiring them. This was reaffirmed on June 7, 1943, in a joint statement by the Secretary of War, the Secretary of the Navy, the Attorney General and the Chairman of the Maritime Commission.

According to section 205 of the Independent Offices Appropriations Act, approved June 26, 1943, aliens who are nationals of any of the United Nations may now be employed by the Government agencies whose appropriations are provided by this act.

In recent months the paper work and the time needed for clearance of applications have served as the chief obstacles to the employment of aliens. At this time the Provost Marshal General has brought

about decentralization of the investigation and clearance of alien applications. This process should reduce considerably the time required for clearance.

* * * * *

As a war agency the Committee on Fair Employment Practice is concerned with bringing about the fullest utilization of all available manpower for the fight against the Axis. Its functions are the direct expression of Government policy and are aimed at eliminating discriminatory practices, which in the present emergency tend seriously to impair workers' morale and national unity. The current need for labor does not allow for the continuance of habits which bar qualified workers from employment and prolong the day of victory.

EXECUTIVE ORDER

No. 9346

FURTHER AMENDING EXECUTIVE ORDER NO. 8802 BY ESTABLISHING A NEW COMMITTEE ON FAIR EMPLOYMENT PRACTICE AND DEFINING ITS POWERS AND DUTIES

In order to establish a new Committee on Fair Employment Practice, to promote the fullest utilization of all available manpower, and to eliminate discriminatory employment practices, Executive Order No. 8802 of June 25, 1941, as amended by Executive Order No. 8823 of July 18, 1941, is hereby amended to read as follows:

"WHEREAS the successful prosecution of the war demands the maximum employment of all available workers regardless of race, creed, color, or national origin; and

"WHEREAS it is the policy of the United States to encourage full participation in the war effort by all persons in the United States regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the nation can be defended successfully only with the help and support of all groups within its borders; and

"WHEREAS there is evidence that available and needed workers have been barred from employment in industries engaged in war production solely by reason of their race, creed, color, or national origin, to the detriment of the prosecution of the war, the workers' morale, and national unity:

"Now, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States and Commander in Chief of the Army and Navy, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of any person in war industries or in Government by reason of race, creed, color, or national origin, and I do hereby declare that it is the duty of all employers, including the several Federal departments and agencies, and all labor organizations, in furtherance of this policy and of this Order, to eliminate discrimination in regard to hire, tenure, terms or conditions of employment, or union membership because of race, creed, color, or national origin.

"It is hereby ordered as follows:

"1. All contracting agencies of the Government of the United States shall include in all contracts hereafter negotiated or renegotiated by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin and requiring him to include a similar provision in all subcontracts.

"2. All departments and agencies of the Government of the United States concerned with vocational and training programs for war production shall take all measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin.

"3. There is hereby established in the Office for Emergency Management of the Executive Office of the President a Committee on Fair Employment Practice, hereinafter referred to as the Committee, which shall consist of a Chairman and not more than six other members to be appointed by the President. The Chairman shall receive such salary as shall be fixed by the President not exceeding \$10,000 per year. The other members of the Committee shall receive necessary traveling expenses and, unless their compensation is otherwise prescribed by the President, a per diem allowance not exceeding twenty-five dollars per day and subsistence expenses on such days as they are actually engaged in the performance of duties pursuant to this Order.

"4. The Committee shall formulate policies to achieve the purposes of this Order and shall make recommendations to the various Federal departments and agencies and to the President which it deems necessary and proper to make effective the provisions of this Order. The Committee shall also recommend to the Chairman of the War Manpower Commission appropriate measures for bringing about the full utilization and training of manpower in and for war production without discrimination because of race, creed, color, or national origin.

"5. The Committee shall receive and investigate complaints of discrimination forbidden by this Order. It may conduct hearings, make findings of fact, and take appropriate steps to obtain elimination of such discrimination.

"6. Upon the appointment of the Committee and the designation of its Chairman, the Fair Employment Practice Committee established by Executive Order No. 8802 of June 25, 1941, hereinafter referred to as the old Committee, shall cease to exist. All records and property of the old Committee and such unexpended balances of allocations or other funds available for its use as the Director of the Bureau of the Budget shall determine shall be transferred to the Committee. The Committee shall assume jurisdiction over all complaints and matters pending before the old Committee and shall conduct such investigations and hearings as may be necessary in the performance of its duties under this Order.

"7. Within the limits of the funds which may be made available for that purpose, the Chairman shall appoint and fix the compensation of such personnel and make provision for such supplies, facilities, and services as may be necessary to carry out this Order. The Committee may utilize the services and facilities of other Federal departments and agencies and such voluntary and uncompensated services as may from time to time be needed. The Committee may accept the services of State and local authorities and officials, and may perform the functions and duties and exercise the powers conferred upon it by this Order through such officials and agencies and in such manner as it may determine.

"8. The Committee shall have the power to promulgate such rules and regulations as may be appropriate or necessary to carry out the provisions of this Order.

"9. The provisions of any other pertinent Executive order inconsistent with this Order are hereby superseded."

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
May 27, 1943.

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GEORGE M. JOHNSON, Deputy Chairman, Room 320, Extension 4365.

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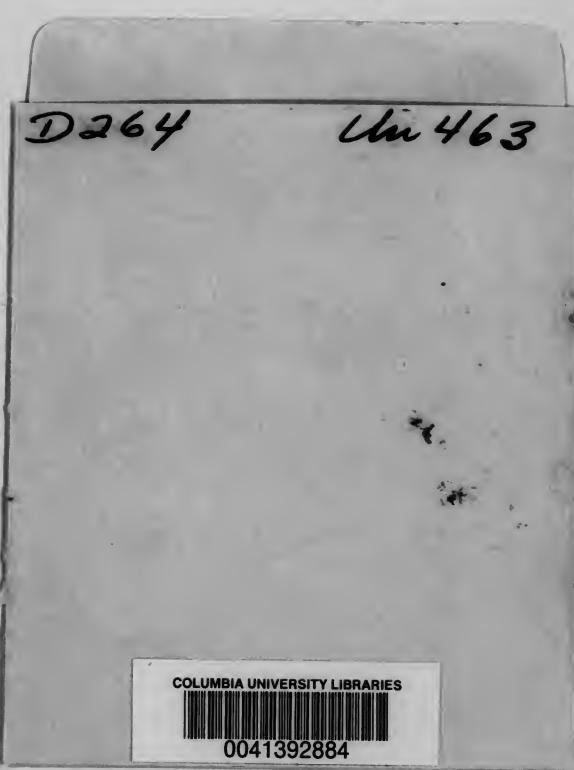
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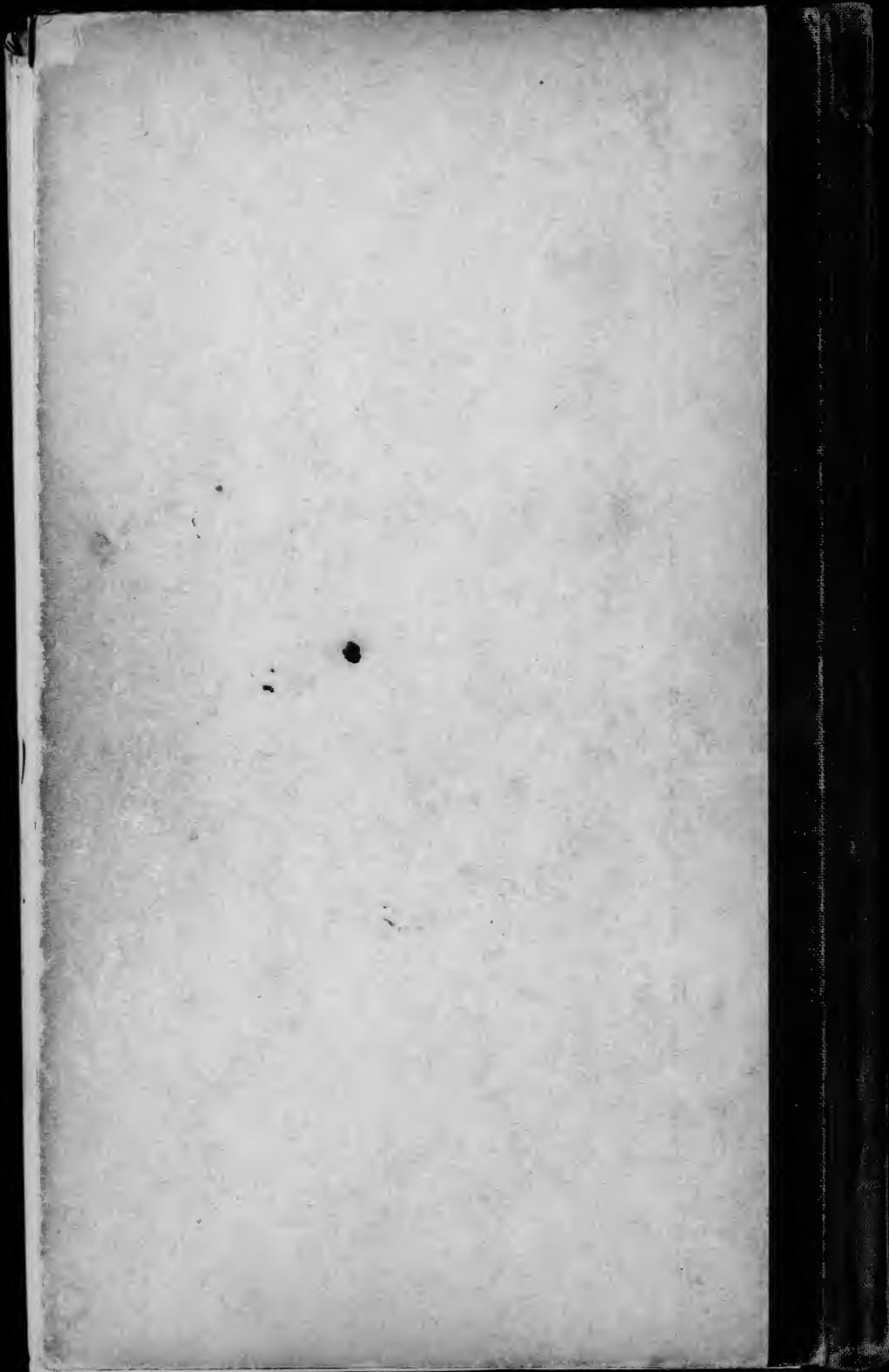
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